

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Kathleen Hartnett White, *Commissioner*
Margaret Hoffman, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 7, 2003

Mr. Jeff Klieve, PTPA Chair
Director, Environmental Affairs
Monsanto Company
One Thomas Circle, NW
Tenth Floor
Washington, DC 2000

Dear Mr. Klieve:

Thank you for the timely update about the activities of the Performance Track Participants Association. As you may know, the Texas Commission on Environmental Quality (TCEQ) was the first state to enter into a Memorandum of Agreement (MOA) with the US EPA in an effort to integrate NEPT with our state program, Clean Texas. I have enclosed a copy of this MOA for your information. TCEQ, EPA Office of Policy, Economics and Innovation, and EPA Region 6 have been diligently developing an integration plan that lays out the process for making this MOA a real and meaningful document.

A primary reason for embarking on this effort is to provide worthwhile incentives. At this time EPA offers low inspection priority to NEPT members. The TCEQ has committed to a reciprocal reduced inspection frequency to high performing Clean Texas Leaders. Our staff is working through the details of this incentive. Reduced inspection frequency is one of several appropriate incentives that will be available for members. Additional incentives available now to our Clean Texas Leaders include:

- Credit under Compliance History
- Exemption from Source Reduction and Waste Minimization Planning Requirements
- Reduced fees for EMS implementation training
- Single point of contact for innovative activities
- Stringency Evaluation

Incentives in the process of being developed include:

- Extended Hazardous Waste Storage Time
- Reduce MALT reporting
- Additional notice for inspections
- Reduced DMR Reporting
- Alternative compliance options under Title V

Mr. Jeff Klieve
August 7, 2003
Page 2

I direct you to www.abouttexasems.org for more information about this effort.


The 77th Texas Legislature in 2001 passed HB 2997 which supports the development of incentives for TCEQ approved Environmental Management Systems. Enclosed is a list of the current incentives that are available for Clean Texas Leaders with an approved EMS. Together HB2997 and the Clean Texas/NEPT integration plan will provide a framework for creating a system that will provide incentives for better environmental performance.

Reducing redundant paperwork and maximizing the incentives for organizations that commit to the high levels of environmental performance are two of the goals of this project. I am confident this effort will produce the type of innovative partnership that produces results for our communities and our regulated entities, and serve as a model for the rest of the country.

We look forward to continuing our work with the members of PTPA and encourage you and your members to continue to support environmental excellence in Texas. If you have any questions about our program, please contact Rob Borowski at 512/239-3187 or rborowskg@tceq.state.tx.us.

Please keep me informed of your efforts.

Sincerely,



Robert J. Huston
Chairman

Enclosures



Memorandum of Agreement
Between'
The Texas Natural Resource Conservation
Commission
And
The U.S. Environmental Protection Agency

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We at the Environmental Protection Agency (EPA) and the Texas Natural Resource Conservation Commission (TNRCC) share a commitment to recognize and reward environmental leadership in the protection of air, water, and land. To that end, EPA created the National Environmental Performance Track program and Texas created the Clean Texas Leader program and the Texas Environmental Management System program. These voluntary incentive and recognition programs encourage program members to focus on issues important to their communities, to take a creative approach to solving local problems, and to employ partnerships and networking with neighborhood citizens to achieve environmental goals.

EPA and TNRCC believe we can achieve more by working together than by pursuing our goals independently. Coordinating efforts will enable us to increase the efficiency and effectiveness of our programs as we meet the opportunities that will accompany their growth and development. As program membership increases, so do our opportunities to encourage industry to commit to practices that yield beyond compliance results--and ensure the higher level of environmental protection that EPA, TNRCC, program members, and the American public all seek.

Through this Memorandum of Agreement, EPA and TNRCC commit to creating the best value for our customers; reducing the resource requirements of both the EPA and TNRCC staff and the administrative burden of member organizations; creating the greatest amount of incentives, flexibility, and recognition for program members; and reinforcing and encouraging continual improvement in environmental performance. While encouraging each program to maintain its own identity, EPA and TNRCC pledge to:

Coordinate the application processes of National Environmental Performance Track and Clean Texas Leader so eligible applicants can apply to both programs simultaneously.

Work with facilities to identify ways to streamline and facilitate the application process.

Provide to eligible facilities the assistance necessary to apply and be evaluated expeditiously for acceptance into both programs.

Develop incentives that reduce program members' administrative burdens, such as reduced reporting and expedited permitting, where feasible, in recognition of their high levels of performance.

Coordinate the delivery of incentives to achieve maximum environmental benefit and minimize transaction costs.

Identify for program members a high level point of contact in each program.

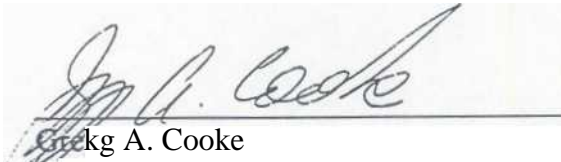
Produce co-marketing tools and conduct joint recruiting and recognition events.

Identify regulatory innovation opportunities that comply with State and Federal statutes/rules.

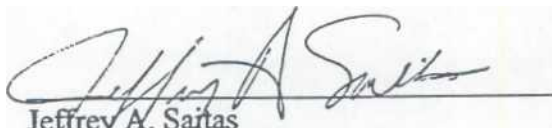
Communicate the measurable environmental results achieved by the National Environmental Track and Clean Texas Leader programs to the public.

These are just the first of many steps we at EPA and TNRCC will take together to enhance our programs and reward program members for their leadership in environmental protection. We will continue to look for additional ways to align our programs so that program members and the environment benefit. Our focus will be to clarify the roles and responsibilities of all partners as we work to align our program requirements and develop additional means to deliver recognition, flexibility, and incentives to our environmental leader members. We look forward to developing a detailed work plan that further defines how our programs will work together and anticipate a cleaner future for the American, and particularly the Texas, environment as a result.


This Memorandum of Agreement is entered into this 20th day of February, 2002, and remains in effect unless amended by mutual consent.



Gregg A. Cooke
Regional Administrator
EPA Region VI



Jeffrey A. Saitas
Executive Director
Texas Natural Resource Conservation Commission



Thomas J. Gibson
Associate Administrator
Office of Policy, Economics and Innovation
U.S. EPA

Summary of EMS Incentives

Updated June 1, 2003

Incentives Approved by Agency Management and Implemented

Credit under Compliance History (Basic and Leader): The Compliance History Rule (Chapter 60 TAC) provides for a 10% credit for sites that have an agency approved EMS in place for one year.

Exemption from Source Reduction and Waste Minimization Planning Requirements (Basic and Leader): Sites with an approved EMS will be eligible for an exemption from State pollution prevention planning requirements (30 TAC 335 Subchapter Q. Reporting on hazardous waste and/or TRI reductions must still be completed through the EMS process.

Low Inspection Priority for EPA Inspections (Leader): Sites with approved EMSs will not get routine EPA inspections.

Use of Logo (Basic and Leader): Texas EMS logo under development. Clean Texas logo may be used until the Texas EMS logo is complete.

Reduced fees for EMS implementation training (Basic and Leader): Currently, this incentive is being offered to Clean Texas members and Texas EMS sites.

Single point of contact for innovative activities (Basic and Leader): If your site is interested in undertaking an innovative project that requires coordination within the agency, the EMS team will assist you. Contact

Stringency Evaluation (Leader): Sites that are subject to both federal and state requirements covering the same issue (such as leak detection and repair) ask to be held to only one of these standards through the Air Permitting process.

Extended Hazardous Waste Storage Time (Leader): This has been proposed in rule by EPA under the NEPT program, and TCEQ supports this. Once the EPA rule is final, TCEQ will need to adopt.

Reduce MALT reporting (Leader): This has been proposed in rule by EPA under the NEPT program, and TCEQ supports this. Once the EPA rule is final, TCEQ will need to adopt.

Flexibility for POTWs (Leader): This has been proposed in rule by EPA under the NEPT program, and TCEQ supports portions of their proposal. Once the EPA rule is final, TCEQ will need to adopt.

Reduced State Inspection Frequency (Leaders with a high compliance history):

EPA currently provides for low inspection priority. TCEQ is currently developing how this will be applied in Texas.

Additional notice for inspections (Leaders with a high compliance history): In development.

Incentives Approved by Agency Management, Implementation Planned

Reduced DMR Reporting (Leader): Reduced reporting and monitoring under the discharge monitoring report provisions of the Clean Water Act. This incentive will need federal approval to implement.

Alternative compliance options under Title V (Leader): Allow for alternative compliance options under Title V (if allowed by rule) without requiring the option to be identified up front. The equipment and/or operation would need to be authorized under the New Source Review (NSR) permit. This incentive will need federal approval to implement.

Description of Process:

Incentives development in Texas goes through a process. Step 1 is the initial conceptualization of the incentive. This can be done by anyone - NGO, state agency, or regulated entity. Step 2 is review of the incentive by an inter-agency team. Incentives that meet the agency criteria are then recommended to agency management. Step 3 in incentives development is consideration of the incentive by the Executive Director and Commission. The next phase, Step 4, in the incentive development applies if the incentive is approved by the Executive Director and Commission and depends on the type of incentive. Some can be immediately implemented such as reduced fees for certain workshops; others require development of a new agency policy such as reduced inspections; and some require rule changes, which may involve both federal and state rule processes.

To Suggest an Incentive:

Before suggesting an incentive, please review the criteria (see footnote this page) and incentives already reviewed (available at) by TCEQ.

To suggest an incentive, provide the following:

1. Description of incentive (e.g., proposed exemption, rule change, or policy change)
2. Current practice (e.g., current rule or policy relevant to the incentive)
3. Explain how the incentive meets the agency criteria
4. Explain the benefit of the incentive to the regulated entity
5. Provide a contact name and number of person suggesting incentive

Send the suggestion attention to Susan Roothaan at (512) 239-3186.